

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

TANGALA CARTER, §  
§  
Plaintiff, §  
§  
v. § C.A. NO. 1:19-cv-588  
§  
§  
CALIFORNIA GRILL, LLC d/b/a §  
FOXY'S CABARET §  
§ JURY DEMANDED  
§  
Defendant. §

**DECLARATION OF TANGALA CARTER**

1. My name is Tangala Carter. I am over the age of eighteen (18), fully competent and capable to make this Declaration. All of the facts contained within this Declaration are true and correct and are based upon my personal knowledge.

2. I was hired by Foxy's Cabaret in June 2017 as a waitress.

**A. Employees using the word "nigga" toward me**

3. Soon after I began working at Foxy's, I began hearing employees using the word "nigga" on the job. The first time I heard that was when three waitresses, all of whom are white, were singing along with a song that our DJ was playing that had the word "nigga" in it. I then noticed that white employees use the word "nigga" at Foxy's every day, generally to address or refer to a Black employee or customer.

4. In my first month of employment at Foxy's, one of the managers, Taylor Ratcliff, who is white, came up to me and said "what's up nigga?" I was shocked, and told Mr. Ratcliff that it made me feel uncomfortable for him to use that word. He said he was just kidding around,

so I told him “well, you know that’s just not okay with me. I’m not okay with you using that type of language towards me.” Taylor’s response was: “whatever.” After that conversation, Mr. Ratcliff began using the word “nigga” around me or toward me during every shift when we worked together, which was most of my shifts. He would still greet me by saying “what’s up, my nigga” and using the word “nigga” toward me constantly.

5. Ashley, one of the white waitresses, also used the word “nigga” frequently. In or around October 2017, I told Ashley that her using the word “nigga” so much made me feel uncomfortable. I explained to her that “that word coming from, you know, people that aren’t African American is offensive.” When Ashley told me that she uses the word around her Black friends, I told her “that’s what you do with your friends, but around me, especially at work, I don’t want to hear it coming from anybody really.” After that, she made it a point to say the word “nigga” around me. If she was greeting somebody else, speaking to someone, or explaining something to somebody, and I was close by, she would use that word. After I talked to Ashley about her use of the word “nigga,” I told one of the managers, Dan, that I did not like for her to use that word around me at work. Dan responded: “oh - I’ll talk to her.” After I spoke with Dan, Ashley continued using the word “nigga” around me, even more frequently than she had before. She used it as much as she could - the majority of the time when she saw me at work, she would use that word toward me, both while singing along with songs and while talking to me.

6. Erica, another white waitress, also used the word “nigga” just about every time we worked together. Around the same time that I talked to Dan about Ashley using the word “nigga,” I told Dan that Erica was using the word “nigga” toward me as well, and I did not like

it. I told him that I did not feel comfortable with Erica's "obsessive" use of that word. Erica continued using the word "nigga" around me and toward me after I reported it to Dan.

7. The constant use of racial slurs at Foxy's made it difficult for me to do my job. I felt uncomfortable, sad, and depressed at work, and that made it harder for me to be good at my job, because being a server required me to have a good attitude and to be pleasant and fun. I did not want to speak with or be close to the managers and other employees who used racially derogatory language. Much of the work I did at Foxy's required cooperation with other employees, but it was difficult to work cooperatively with people who used racial slurs.

#### Disparities in job assignments

8. Shortly after I began working at Foxy's, I also noticed that Black employees were made to clean chairs and tables, but white employees were not. White employees were permitted to sit around and take breaks and drink, whereas Black employees were not. On some shifts, I was the only Black employee who worked behind the bar, and I got asked to clean up after the white employees who worked behind the bar, and those employees were not required to clean up after themselves. I and the other Black waitress were made to sit and wipe candle glasses down one by one and clean chairs while the white waitresses were making money from tips, or sitting down drinking with customers.

#### **B. Foxy's lack of discrimination policy or complaint procedure**

9. During the time I worked at Foxy's, I was not made aware of any policy at Foxy's that prohibited racial harassment or discrimination. Though I signed some initial paperwork when I was first hired, such as a Credit Card Policy, a Cash Handling Policy, and a document explaining that Foxy's was a workers' compensation non-subscriber, I was not given anything

that discussed any policy about racial harassment or discrimination, or indicated what I should do if I believed I was being harassed based on my race. Foxy's did not have an HR person on-site; nor was I told of any way to contact anybody in human resources.

**C. Complaint to GM Tommy Perkins, and the retaliation that followed**

10. On or around November 4, 2017, I spoke with Tommy Perkins and told him that that I was not comfortable with the word "nigga" being used toward me so much, and with the difference in treatment between the white employees and black employees. Mr. Perkins was the General Manager of Foxy's, and so was the highest level manager in the establishment. I told Mr. Perkins that I had observed that the white employees were treated much better than the black employees, given easier job duties and being talked to less harshly than the black employees. I told him I felt that something was not right with the difference in treatment.

11. Approximately three days after my conversation with Mr. Perkins, my work hours were reduced. When I saw the new schedule, where my shifts were reduced from their usual five per week to three per week, I texted one of the managers, Dave Thomas, about my hours being cut. However, I was not put back on my regularly scheduled shifts. After management cut my hours, I was still scheduled for Mondays, but when I showed up for my next Monday shift, a different waitress was already there, and I was not able to do the job that I was typically assigned to do, which was working the bar. So instead, I worked the floor, where I could not earn as much money as I could working at the bar. When I first started working on Mondays at the bar, I could make \$300/night, and my average was probably \$200. On the floor, though, I would only make approximately \$50 per night.

12. After I made the report about racial discrimination to Mr. Perkins, the white employees at Foxy's began using the word "nigga" around me with even more frequency than before. I also observed that the white employees were making special attempts to ensure that I would hear them using the word "nigga," so that they would come close to me when they were having a conversation where that word got used, or where they were singing a song with that word in it. After I made the report about racial discrimination to Mr. Perkins, Ashley, Erica, and Courtney, who were all servers, began treating me differently. They were all doing the same thing - not talking to me, not cooperating with me, and, with Ashley and Erica, when they did have to talk to me, they used the word "nigga," seemingly on purpose to upset me.

13. After I made my report to Tommy Perkins, if I needed to ask Tommy a question, he'd have a mean look on his face, and sometimes would not talk to me at all. If I tried to get his attention, he would walk by me and not talk to me.

14. After I made the complaint to Tommy Perkins, the work environment became even more difficult - the employees all made me feel unwelcome and uncomfortable. For instance, before my report to Mr. Perkins, I would often ask Erica for help with coolers and pitchers, and would help her when she needed help with them too, but after I made the complaint, Erica would not really talk to me anymore. She would not help me when I asked her for help, and she was uncommunicative and unhelpful.

15. Taylor Ratcliffe also continued using the word "nigga" toward me after I spoke with Mr. Perkins. Mr. Ratcliffe made a point of making sure that I could hear it when he used that word, often when he was singing or talking with someone else. I also observed that Mr. Perkins heard Mr. Ratcliffe use the word "nigga" around me after I made the complaint about it.

Mr. Perkins would be standing there, and would sometimes be part of the conversation, and hear it, but he would not do anything about it. On one occasion after my report to Mr. Perkins, Erica came up to me when I was standing at the bar, and she was singing a song that had the “n” word in it a lot, and she sang it right up in my face, in a way that was threatening.

16. Also after I complained to Mr. Perkins about the racial slurs, management began preventing me from earning tips, my primary source of income at Foxy’s, by refusing to allow me to wait on tables. When I first started working at Foxy’s, the waitresses were not assigned to specific tables - if you were available when a group came in, then you could wait on them. However that process later changed so that when the customers came in, a waitress would already be in their section. Management started assigning certain waitresses to people that they knew would come in and spend money, so nobody else would be able to take care of those customers. I began hearing from customers that they had been told that if I or the other black waitress tried to help them, that they were to tell us they were already being taken care of. On one occasion, I heard Dave, one of the managers, telling a customer, “we’ve already got a waitress for you. Some of the other girls, I’m not going to say that they are lazy, but this is the best waitress.” After my complaint to Mr. Perkins, my table assignments decreased a lot, until I had almost no work at all.

17. In early December 2017, I spoke to Dan, one of the managers, about the table assignment issue, but nothing changed after I did that.

18. I filed a Charge of Discrimination with the U.S. Equal Employment Opportunity Commission on December 7, 2017, concerning the racial slurs and differences in job assignments.

#### **D. Constructive termination**

19. By late December 2017, it got to the point where I was not being given any tables at all. On the night of December 29, all of the customers were being assigned to the white waitresses, and I did not have a single table. I saw a local rapper who I knew come into the club and go up to the VIP area. I attempted to go to the VIP area to wait on him, but when I got there, there were two security guards stationed there. I told them I was going to go see if he needed something, but the guards said they could not let me through. Then two white waitresses walked through with no problem. I then went to talk to Dan, the manager who was on duty. I told him: "I'm ready to go, you know, because I'm being kept from waiting on customers." Dan told me to go fill out a document stating that I was abandoning my job. I told him that I was not abandoning my job, but I was not being allowed to work. He told me that if I left, I would be given a write-up. I did not want to be disciplined for leaving, but I could not make any money without customers to wait on, so I told Dan that I was resigning my employment with Foxy's.

#### **E. EEOC investigation**

20. After my resignation, I amended my charge of discrimination that was filed with the EEOC. Nobody from the EEOC ever spoke with me about the allegations I reported in my Charge.

I declare under penalty of perjury that the foregoing is true and correct.

Date: November 13, 2020

  
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Tangala Carter

# Carter - Declaration for MSJ Response

Final Audit Report

2020-11-13

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